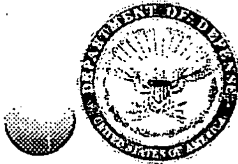

SECRETARY OF THE AIR FORCE
WASHINGTON

23 AUG 2005

The Honorable John Thune
United States Senate
Washington, DC 20510-4105

Dear Senator Thune:

Thank you for your letter and call regarding Base Realignment and Closure (BRAC) recommendations and litigation regarding the Realistic Bomber Training Initiative (RBTI). I want to address the two overarching concerns expressed in your letter and our conversation: that the Air Force responses to the BRAC Commission did not adequately address the impact of the RBTI litigation on Air Force operations, and that the Air Force did not adequately address the litigation impacts in its BRAC recommendations. Let me assure you the Air Force is committed to providing full and complete information to the Commission, and I regret any perception that our responses have been less than complete. I hope this letter and the discussions by our staffs help allay any unfortunate misperceptions that may exist regarding these issues.

I understand your concern about the potential impact of litigation, and I believe the Air Force is accurately assessing the impact of the RBTI litigation on its ongoing operations. The RBTI is a unique and critical component of the multiple training opportunities near Dyess Air Force Base (AFB), and we take the litigation challenging our environmental analysis under the National Environmental Policy Act (NEPA) very seriously. As you know, the Air Force won the initial phase of the lawsuit in the District Court. On appeal, the Fifth Circuit Court of Appeals upheld the Air Force's Environmental Impact Statement (EIS) on all but two procedural grounds, and ordered the Air Force to perform a supplemental EIS to correct the record regarding its study of wingtip vortices and how certain comments by the FAA were addressed. As with other cases where courts have remanded a decision for NEPA deficiencies, once that supplemental EIS is completed, the Air Force and FAA will proceed with a new decision with no necessity to seek or obtain the approval of any court before that new decision goes into effect. Although future litigation challenging that new decision is always a possibility, we firmly believe our analysis in the Supplemental EIS will ensure compliance with NEPA.

On January 5, 2005, after the Court of Appeals decision was issued (but before it was final), the Air Force requested the Court exercise its discretion to allow continued use of the RBTI during completion of the supplemental EIS, and in support of that motion the Air Force informed the Court it would issue a directive stating aircrews will fly no lower than 500 feet above ground level (AGL) when utilizing IR-178, and no lower than 12,000 feet above mean sea level (MSL) for the Lancer Military Operating Area (MOA). That Directive was issued on January 12, 2005. As noted in your letter,

the Air Force also submitted affidavits from its Air Combat Command (ACC) to the Court identifying the adverse impacts that would result if the Court denied the motion and refused to allow use of the RBTI. The affidavits confirmed that continued use within the operational parameters adopted in the Air Force's January 12 directive would still allow aircrews to "continue training as realistically as possible." This is true even though use pursuant to those parameters may not fully meet the standards applicable at that time for low-level realistic training on IR-178. The Fifth Circuit granted the Air Force request, and remanded the case to the District Court to determine what operational conditions should be established. On June 29, 2005, the District Court adopted the January 12 flight procedures (as the Air Force had requested) as an enforceable part of its Order.

In the interim, apart from any litigation but as part of the normal periodic operations review process, Air Combat Command revised its low-level bomber training policy. In April of 2005, ACC issued a Directive establishing 500 feet as the minimum B-1 bomber low-level altitude for realistic training nation-wide (with certain exceptions for test crew flights). Moreover, because IR-178 is exclusively low-level training, the Lancer MOA rounds out crew training requirements by affording high altitude training well above 12,000 MSL. Thus, in accordance with current Air Force Directives and the District Court Order, the Air Force continues to provide effective and realistic training in the IR-178 low-level route and Lancer MOA. Although the plaintiffs appealed the District Court's Order on August 11, 2005, the Order remains in effect during the pendency of the matter, and the Air Force believes that Order should withstand the appeal. In any event, by their own terms the District and Circuit Court orders will terminate once the new decision is issued upon completion of the supplemental EIS, which will occur well before any realignments take place. As noted above, our intent is to be prepared to withstand any additional litigation concerning the new decision.

Finally, I would like to assure you that appropriate consideration was given to the potential impacts of this litigation on base closure and realignment recommendations. The low-level airspace component of the military value metric for bomber installations identified all low-level airspace within 300 nautical miles of each installation without regard to the varying minimum or maximum altitudes within that airspace (such as those embodied in the Air Force Directives and the District Court Order). The greater the amount of airspace within that radius, and the closer the airspace is to the installation, the better the score.

The Base Closure Executive Group (BCEG) was aware of the RBTI litigation, but since the litigation did not prevent the use of IR-178, in the judgment of the BCEG it did not detract from the base's value or cause concern for future operations. Furthermore, while we will perform an appropriate environmental analysis of all of the potential impacts from any realignments that ultimately become effective, under current operational conditions and utilization it appears that the RBTI can, if necessary, absorb the number of additional sorties that might result from the recommended realignments. Historical training records show that operational squadrons fly a significantly lower rate of sorties at the RBTI than training squadrons do. Therefore, the addition of operational

squadrons from Ellsworth would not "double" the number of missions flown at the RBTI or significantly "change the dynamics" of the supplemental EIS process as your letter suggests.

I appreciated the opportunity to speak with you and discuss your concerns on this matter, and I understand we may have a genuine difference of opinion regarding our assessment of the impact of the RBTI litigation. Nevertheless, I am confident the Air Force has thoughtfully exercised its judgment, and has made and will continue to make every effort to ensure that its responses to the Commission on these issues are straightforward and complete. I remain ready and willing to engage with you or your staff at your convenience to further discuss your concerns.

Sincerely,

Pete Geren
Acting Secretary of the Air Force